

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

JULY 2, 2001

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The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

JAMES HANNAHAM	Commissioner
JOHN G. PARSONS	Commissioner

COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning

P-R-O-C-E-E-D-I-N-G-S

(9:45 a.m.)

CHAIRPERSON GRIFFIS: Ladies and gentlemen, I will call to order this public meeting of July 2, 2002. I am Geoffrey Griffis, the Chairperson today. Joining me, of course, and with great honor, is Ms. Ann Renshaw, Vice Chair, and Mr. Curtis Etherly on my right. Representing National Capitol Planning Commission is Mr. David Zaidain. We have staff members with us, ably guiding us this morning and, as all mornings, Ms. Bailey and Ms. Pruitt, who will be returning shortly.

Of course, this is our morning public meeting, which means we will be deliberating and making decisions on cases. I am going to shuffle the schedule a little bit this morning, and I would like to know if there is a representative of the May Department Store Company, Application 16625 here -- okay.

I think we don't need you up at this point.

What I'd like to do is dispense with that first. We will then go to Application 16817, Barbara Chambers Children's Center, moving on, then, to Application 168175 of the All Souls Memorial Episcopal Church. After that case, we will be taking a short recess, and we will return for the appeal of 16839, Advisory Neighborhood Commission 4A. And finally in the morning, if anyone's left, we will go through our minutes for your interest and entertainment.

With that, why don't we proceed.

1 MS. BAILEY: Mr. Chairman, members of the Board,
2 good morning. The first item on the Board's agenda is a motion,
3 and it's Application 16625 of the May Department Stores Company,
4 pursuant to 11 DCMR 3103.2, for variances from the requirements
5 of the downtown development -- that's the DD District.

6 The application was to construct an office building
7 also under subsections 1702.7(c) and 1703.3 from the parking
8 requirements to provide all-day commuter parking and to provide
9 ground-floor leasable space or certain retail and personal
10 service uses in a DD C-4 districted premises, 719 13th Street,
11 N.W., Square 288, Lot 10. The Board heard this case on November
12 14, 2000, and the decision was made that same day, November 14,
13 2000.

14 Briefly, the Board approved the application by a
15 vote of 5-0-0. The record was left open at the public hearing in
16 November for an ANC report, and that ANC report did come in. The
17 applicant has requested a motion to reopen the record. Two
18 things are being requested, the first of which a waiver to allow
19 the Board to take up this request more than six months after the
20 final date of the order, then secondly, a request for
21 modification of approved plans.

22 The applicant is proposing to eliminate from the
23 approved parking plan the stripe-in of non-required parking
24 spaces in a valet-operated parking garage.

25 We do have the following letter from ANC 2C

1 supporting the applicant's motion for approval. This motion is
2 now before the Board for a decision.

3 CHAIRPERSON GRIFFIS: Good. Thank you very much.
4 As Board members, there is only one of us who was on this case at
5 that time. Let me just ask each, then I will state for the
6 record that I have read the entire transcript of November 14,
7 2000, and the entire record, and ask others to affirm the same.

8 MR. ETHERLY: Mr. Chairman, while our Vice Chairman
9 answers the phone and disposes of that efficiently, I would also
10 like to say that I have read the full transcript of the November
11 14th proceeding, as well as the full record, and would be
12 prepared to sit and hear this motion.

13 MR. ZAIDAIN: Mr. Chair, I would like to state
14 something similar, that I have read the record, and I appreciate
15 staff providing it for us in our weekly packets, and I'm prepared
16 to move forward.

17 CHAIRPERSON GRIFFIS: Thank you. First, then, we
18 have the motion to waive rules for more than six months of the
19 final date of the order. I would take discussion on that. I
20 don't have any difficulty with that. It seems very clear cut and
21 laid out in the submissions on the reasoning for that. Any other
22 comments?

23 MS. RENSHAW: Mr. Chairman, I move that we waive
24 the rules here.

25 CHAIRPERSON GRIFFIS: Good. Second. All in favor?

1 (Unanimous ayes.)

2 CHAIRPERSON GRIFFIS: Opposed?

3 (No response.)

4 CHAIRPERSON GRIFFIS: Why don't we just record
5 everything at the end and move on with this. The request for
6 modification to approve plans -- we have submitted to Board
7 members, as we've all read and review the actual original plans
8 that are dated or stamped are in fact approved plans, and the
9 comparative ones, it is very clear and straightforward that this
10 is a valet. And if I'm clear on it, in fact an elevator service
11 to parking. They are removing the striping on it, and I do not
12 see any great concern. First of all, it is clearly a minor
13 modification to the original. It does not go to subsequently
14 change in any way the project, as was deliberated on and approved
15 previously by this Board. I would move that we approve the
16 request for modification that includes the elimination of the
17 striping and ask for a second. We can have discussion.

18 MR. ZAIDAIN: I'll second that.

19 CHAIRPERSON GRIFFIS: Thank you. Any comments?
20 Discussion?

21 (No response.)

22 CHAIRPERSON GRIFFIS: In which case, we're
23 proceeding faster than I anticipated, so I would ask for all
24 those in favor to signify by saying aye.

25 (Unanimous ayes.)

1 CHAIRPERSON GRIFFIS: Opposed?

2 (No response.)

3 MS. PRUITT: Excuse me, Mr. Chair. For the first
4 one, on the waiver, I did not get who seconded the motion.

5 CHAIRPERSON GRIFFIS: I think I did.

6 MS. PRUITT: Excuse me?

7 CHAIRPERSON GRIFFIS: I think I did.

8 MS. PRUITT: Okay, thank you.

9 CHAIRPERSON GRIFFIS: Do we need to state the votes
10 on that, or is that pretty clear?

11 MS. PRUITT: In reference to the waiver, the Board
12 voted 4-0-1, motion made by Ms. Renshaw, seconded by Mr.
13 Griffith.

14 In reference to the modification to the paint and
15 the removing of the striped area, motion made by Mr. Griffith,
16 seconded by Mr. Etherly, 4-0-1.

17 CHAIRPERSON GRIFFIS: Thank you very much.

18 MR. ETHERLY: Just a correction. I believe the
19 second on that second motion was Mr. Zaidain, if I'm correct.

20 MR. ZAIDAIN: That was correct.

21 MS. PRUITT: I stand corrected. Thank you.

22 MR. ZAIDAIN: Thank you, Mr. Etherly.

23 CHAIRPERSON GRIFFIS: Okay. Next we will go to
24 Barbara Chambers, I believe is what I said. This is a case that
25 in fact I a recused on. So, I will take a break, get a cup of

1 coffee and turn it over to you folks. We will ask Mr. Hannahan
2 to come out. He is the Zoning Commission member on this case.
3 And he will join us.

4 See you all shortly.

5 MS. RENSHAW: All right. Thank you. Chairman
6 Griffis We will proceed.

7 MS. PRUITT: The next case on the agenda is
8 application 16816 of the Barbara Chambers Children's Center,
9 pursuant to 11 DCMR 3104.1, for special exception to operate a
10 child development center, 80 children, ages 2 to 14, and 17
11 staff, under Section 205, in an R-5b district at 1470 Irving
12 Street, NW, Square 2672, Lot 723. The hearing was January 22.
13 The decision date is July 2.

14 At the January 22 hearing, the Board amended the
15 application to reflect that the property had been sold since the
16 application was filed. The current owner is Barbara Chambers.
17 However, when the application was filed, the National Capital
18 Presbyterian Church and Capital City Public School were the
19 owners.

20 At the hearing, the Board instructed the staff to
21 refer this application to the Department of Consumer and
22 Regulatory Affairs, Department of Health and the Fire [sic]. At
23 the end of the hearing, the record was closed, except for the
24 following information which the Board requested from the
25 applicant.

1 The applicant is to provide a memorandum of
2 understanding with the principal of this public school across the
3 street from the site to use the school's parking lot;

4 Reconfigure parking spaces to allow a one-way
5 entrance and exit circulation system, develop a parking plan
6 illustrating the drop-off and pick-up areas, and submit the plan
7 to the D.C. Department of Transportation for review;

8 Install additional perimeter and alley lighting
9 that does not shine direct rays on the apartment building
10 immediately to the east;

11 Install security cameras to monitor the drop-off
12 and pick-up area at the rear door; and

13 Provide a second gated opening in the brick wall,
14 and ensure that both gates remain closed while children are being
15 dropped off and picked up.

16 The Office of Zoning is in receipt of the following
17 items. We received a memo from the Department of Human Services,
18 the Department of Health and Department of Transportation, and a
19 letter from the applicant's representative, indicating that
20 Lincoln Junior High School parking lot would be available. We
21 did get the proposed parking plan and a copy of the settlement
22 statement indicating that the property has been sold.

23 All information came in, in a timely manner, so
24 this case is now before you for decision.

25 MS. RENSHAW: Thank you, Ms. Pruitt.

1 MS. BAILEY: Mrs. Renshaw, excuse me. Just to add
2 something -- just as we came into the room, I also received a
3 letter from ANSI 1A03, Single-Member District Commissioner. It's
4 signed by the Chairperson. If the Board would like to have that,
5 that would need to be waived into the record.

6 MS. RENSHAW: Yes, we would like to have a copy,
7 Ms. Bailey. And my colleagues, this case is now up for a
8 decision. This was rather a convoluted case initially, when we
9 heard the case back in January of 2002 with several names. But
10 that has been clarified since the property is now under the
11 ownership of the Barbara Chambers Children's Center.

12 We had various issues that were discussed -- the
13 parking and the striping, the drop-off, the circulation, the
14 gated lot lighting, access to the front door, are just a few of
15 the issues. We have had the submissions. Turn your attention to
16 the D-DOT report that is dated March 29, 2002. It seems that the
17 revised parking layout provides eight clearly marked spaces, and
18 there are two new exterior lights proposed to illuminate the
19 parking area, and a second area in the parking area is provided.

20 Do my colleagues have any points that they would
21 like to discuss? We want to review the conditions on this order.

22 Any issues?

23 MR. ETHERLY: Thank you very much, Madam. There
24 are no additional issues at this point. But perhaps just to
25 close a loop on the formality of the additional ANC submission,

1 if it would be appropriate to entertain a waiver or motion to so
2 waive our rules and accepted the submission of this letter, I
3 would be inclined to make that motion and seek a second.

4 MS. RENSHAW: I second it. Is there any
5 discussion?

6 (No response.)

7 MS. RENSHAW: Would you like to review, Mr.
8 Etherly, what the letter states.

9 MR. ETHERLY: Thank you very much, Vice Chair. The
10 letter dated June 27, 2002, from ANC Commissioner Elizabeth
11 MacIntire, who is the single-member District Commissioner for
12 1A03. Paraphrasing and summarizing the letter is to simply to
13 reiterate the support of ANC 1A for the application of the
14 Barbara Chambers Children's Center, BZA Application 16817. We do
15 have the original ANC 1A resolution in support of this
16 application on file from our initial hearing.

17 The ANC, in short, notes that parents utilizing the
18 center are neighborhood residents. And as such, they typically
19 will walk to the center or utilize public transportation. The
20 letter continues to note the convenient proximity of the Columbia
21 Heights Metro station, with the additional parking that is
22 provided onsite and in the surrounding area. They continue to
23 reiterate their strong support for the application.

24 Thank you, Madam Chair.

25 MS. RENSHAW: All right. All those in favor of the

1 waiver?

2 (Unanimous ayes.)

3 MS. RENSCHAW: Thank you. The letter dated June 27
4 is waived in.

5 MS. PRUITT: And staff will record the vote as 3-0-
6 2, motion made by Mr. Etherly and seconded by Ms. Renschaw.

7 MS. RENSCHAW: Before we get into a motion and then
8 discussion on the motion and the conditions on the motion, I
9 would like to clarify where it has stated that the application,
10 pursuant to 11 DCMR 3104.1, for a special exception to operate a
11 child development center, 80 children ages 2 to 14 years, and 17
12 staff versus the description of the application in the D-DOT
13 memorandum, that this is a special exception to provide for the
14 expanded use of an existing child development center.

15 Is there any conflict there?

16 (No response.)

17 MS. RENSCHAW: One is a special exception to operate
18 and the other is to provide for an expanded use of an existing
19 daycare center.

20 Ms. Pruitt.

21 MS. PRUITT: I'm sorry, Madam Chair. No.

22 MS. RENSCHAW: All right. There's no conflict on
23 that. Are we ready to entertain a motion, or do the Board
24 members want to discuss this case?

25 MR. ETHERLY: Madam Vice Chair, just a very quick

1 point -- not necessarily a point for discussion, but just to be
2 sure that we've clarified the issue of parking access for Lincoln
3 Junior High School. If I am to understand correctly, the plans
4 currently are to not make use of Lincoln Junior High School
5 parking area because that area is due to undergo renovation.

6 Once again, I'm reading from Exhibit 44, which is a
7 letter to the Board from the director of the Center, Francisca
8 Maribel del Torres. And with D-DOT -- once again, I don't think
9 this is any cause for concern, but just as a matter of
10 clarification, it is now my understanding that the Lincoln Junior
11 High School lot will not be used as additional parking for the
12 Center.

13 MS. RENSHAW: Indeed. We have that letter in our
14 files, and thank you for reviewing that, Mr. Etherly. Just to
15 review the hours for this child development center would be from
16 7 a.m. to 10 p.m. The Office of Planning had discussed having a
17 time limit of about 10:30 so that there could be cleanup. There
18 would be students ages 2 to 14, and the number of students would
19 change from 80 to 150 -- up to 150. The faculty/staff would run
20 from 17 to 31. So, that would be faculty/staff employees from 17
21 to 31. Under the parking, eight spaces are required. DPW, D-DOT
22 and the Office of Planning estimated, per the records, upwards of
23 13 spaces available. We talked about the drop-off in the alley
24 system, and that seems, per the parking arrangement, to have been
25 -- another opening has been made so that there can be a safe

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1 system of dropping off the children.

2 We talked earlier about the need for security
3 lighting, and again, that was addressed in the D-DOT submission.

4 MS. PRUITT: Excuse me, Madam Chair. Just for
5 clarification, you said you increased the number of staff to 31,
6 so you amended the application?

7 MS. RENSCHAW: Hold on a minute.

8 MS. PRUITT: The original application read 17 staff,
9 80 children ages 2 to 14.

10 MS. RENSCHAW: But we had discussed increasing that
11 because it was an expanded use of existing --

12 MS. PRUITT: Right. And I'm just asking, is that
13 what you then determined, that you were going to expand it to 31?

14 MS. RENSCHAW: We can discuss that at this point.

15 MS. PRUITT: Okay, so it's not hard and fast at this
16 point.

17 MS. RENSCHAW: We can discuss it right now.

18 MS. PRUITT: Thank you. I'm trying to understand.

19 MS. RENSCHAW: The staff, employees, faculty under
20 that category -- do our Board members have anything they would
21 like to say? Is there any disagreement among us about increasing
22 the staff to 31?

23 MR. ETHERLY: No disagreement at this point time,
24 Madam Chair. If I understand correctly, this essentially -- or
25 the way we're discussing potentially how an order might be

1 drafted is that the applicant would have the flexibility to go up
2 to a maximum staff number of 31.

3 MS. RENSHAW: Mr. Hannahan?

4 MR. HANNAHAN: Madam Chairman, I'm satisfied that
5 the conditions that we set forth have been satisfied and
6 documented in the record. I'm prepared to consider a motion to
7 approve this application.

8 MS. RENSHAW: All right. Would you like to state
9 the motion in full?

10 MR. HANNAHAN: I would.

11 MS. RENSHAW: All right. Mr. Hannahan, then, would
12 you repeat your motion, please.

13 MR. HANNAHAN: Okay. I would move that Application
14 16817 of the Barbara Chambers Children's Center for a special
15 exception to operate a child development center under Section 205
16 in an R-5b districted premises, 1470 Irving Street, N.W., Square
17 2672, lot 723, to be approved.

18 MS. RENSHAW: Do I have a second?

19 MR. ETHERLY: So seconded, Madam Chair.

20 MS. RENSHAW: All right. Time for discussion.

21 MR. ETHERLY: Madam Vice Chair, just in the way of
22 discussion, as you alluded to, there were a number of conditions
23 based upon the Office of Planning's report. Should those
24 conditions also be reflected in the motion of Mr. Hannahan, or --

25 MS. RENSHAW: We could vote on the motion and then

1 decide the conditions. Why don't we do it that way.

2 MR. ETHERLY: All right.

3 MR. HANNAHAN: Or I can accept an amendment to
4 include those conditions. It was my assumption we were accepting
5 the conditions that have been set forth.

6 MS. RENSHAW: All right. Why don't we discuss the
7 conditions, then, and have that part of the motion.

8 First of all, to approve the application for a
9 period of five years, I would recommend that that be under the
10 conditions. Is there any discussion on that?

11 MR. ETHERLY: I'm in agreement with that, Madam,
12 but I assure that would essentially mean that the applicant would
13 have to return to this body after five years for review of the
14 application.

15 MR. HANNAHAN: I agree, too.

16 MS. RENSHAW: Okay. The second has to do with the
17 hours that the Center shall operate, from 7:00 -- and this would
18 be an expanded time -- to 10:30, Monday through Friday. All
19 clients and visitors shall be off the premises and out of the
20 onsite parking lot by 11:00.

21 Now, I would like to recommend that the hours be
22 from 7:00 to 10:00 and off the premises by 10:30. Any
23 discussion?

24 MR. HANNAHAN: Could you give us some idea as for
25 to the reasoning for changing.

1 MS. RENSCHAW: Just to quiet -- there is always
2 noise associated with the goings and comings of a daycare or
3 child development center. There are surrounding apartment units.

4 And to give quiet to the area in the evening, I would think that
5 10:30 would be a reasonable time for the premises to be vacated
6 and the parking lot to be cleared by 10:30, to give the residents
7 in the area a little quiet. It's a half an hour's difference,
8 but there's always a little bleed on one side or the other, so I
9 would set it at 10:30. Do you have any problems with that?

10 MR. HANNAHAN: I was just thinking that people
11 might be straggling. We might have visitors, clients and others
12 who might be closing up after the children leave. I really don't
13 have any problems with keeping a little flexibility, even after
14 10:30, a half an hour to allow staff --

15 MS. RENSCHAW: Well, originally we discussed 10:00
16 as the close, and the Office of Planning had recommended, I
17 believe, 10:30. And now we have the parking lot to be vacated by
18 11:00. So, that was a change, and I'm not quite sure where the
19 11:00 came from, but I would propose that the child development
20 center close by 10:00 in the evening, and again the parking lot
21 be cleared by 10:30.

22 MR. ETHERLY: Madam Vice Chair, I understand the
23 direction of your modification. I'm inclined, however, to side
24 with my colleague Mr. Hannahan in this regard. I can't recall if
25 we had substantial conversation regarding kind of current

1 discharge patterns in terms of timing. But once again, given the
2 nature of the clientele that the Center is serving, and by that
3 we're talking about working parents oftentimes, who may be coming
4 from a second job. And I would be inclined to provide the center
5 as much flexibility as possible to accommodate the schedules of
6 their clients. So I'm inclined to agree with the Office of
7 Planning's proposed condition that the center operate from 7:00
8 a.m. until 10:30 p.m. and that the onsite parking lot be clear of
9 all clients and visitors by 11:00 p.m.

10 MS. RENSCHAW: Well, I'm not going to beat this one
11 to death, but I hope that everyone will be respectful of the
12 residents in the area. I will then amend this to read as stated
13 and go with the majority on this so we don't get hung up on one
14 condition.

15 So, it will be from 7 to 10:30, but the premises
16 must be cleared, as well as the parking lot, by 11:00. All
17 right.

18 MR. ETHERLY: Thank you very much, Madam Vice
19 Chair. And just to clarify, that's 7:00 a.m. to 10:30 p.m., and
20 the premises clear of all clients and visitors by 11:00 p.m.

21 MS. RENSCHAW: Exactly.

22 Number three, the number of children attending the
23 center shall not exceed 150. Any questions?

24 MR. ETHERLY: No questions.

25 MR. HANNAHAN: No problems.

1 MS. RENSHAW: All right. And the number of
2 employees -- meaning faculty, staff, administrative persons --
3 shall not exceed 31.

4 MR. HANNAHAN: That's fine. That gives some
5 flexibility.

6 MS. RENSHAW: All outdoor activities shall take
7 place under faculty-staff supervision at all times.

8 MR. HANNAHAN: That's reasonable.

9 MS. RENSHAW: Number six, all outdoor activities
10 shall cease by 8:00 p.m. I question that because of the noise
11 factor. I'm not quite sure that they'd be outside until 8:00
12 p.m. in the wintertime. Any discussion?

13 MR. HANNAHAN: Possibly 8:00 -- in the summertime,
14 it's around 8:30 or so. In wintertime, I could understand, but
15 unless we want to break it down seasonally, 8:00 gives you a
16 reasonable time to cease activities. It seems to me as though --
17 were you inclined to make it earlier, like 7:00 maybe, or?

18 MS. RENSHAW: So, any outdoor activities shall
19 cease by 8:00? 7:30? We'll change the word to "all" to "any" --
20 activities shall cease by 8:00 p.m.

21 MR. ETHERLY: I'm comfortable with that, Madam
22 Chair. I don't want us to second-guess the judgment and
23 expertise of the staff and administration. Given a lot of the
24 supporting comments from both the ANC and other segments of the
25 District government, I think we can be comfortable and have

1 confidence at the center that staff will exercise excellent
2 judgment in terms of any outdoor activities, but I'm comfortable
3 with that condition.

4 MS. RENSCHAW: All right. Number 7, faculty-staff
5 shall closely monitor the children's arrivals and departures.

6 MR. HANNAHAN: That makes sense.

7 MS. RENSCHAW: Number 8, the grounds of the facility
8 shall be maintained in a neat and orderly condition at all times.

9 Number 9, trash and refuse generated by the center
10 shall be stored onsite and shall be collected at least three
11 times weekly.

12 Is there anything that you want to state in regard
13 to the parking plan? That there will be a second opening in the
14 brick wall?

15 MS. BAILEY: Mrs. Renschaw, excuse me. Just before
16 the hearing started, the discussion started, the applicant did
17 give me a full set of plans, and I can show it to the Board at
18 this time.

19 MS. RENSCHAW: Thank you, Ms. Bailey. We'll pause
20 here to take a look at this.

21 MR. ETHERLY: And Madam Chairman, I believe we also
22 ought to entertain a motion to waive to allow acceptance of this,
23 and I would so move.

24 MS. RENSCHAW: Second. All those in favor of
25 waiving this in.

1 (Unanimous ayes.)

2 (Off the record at 10:18 a.m.)

3 (On the record at 10:20 a.m.)

4 MS. RENSCHAW: We took a few minutes to review the
5 parking arrangement that has been approved by D-DOT. Is the
6 Board satisfied with this parking plan?

7 MR. ETHERLY: Madam Vice Chair, I'm satisfied with
8 the parking plan. We'd be prepared to move forward.

9 MS. RENSCHAW: All right. I would add another
10 condition, that the applicant is required to maintain the
11 certificate of occupancies and all appropriate licenses, if we
12 could add that to the list of conditions.

13 MR. ETHERLY: Agreed, Madam Chair.

14 MS. RENSCHAW: Is there anything addition insofar as
15 security? D-DOT had mentioned that two new security lights are
16 proposed to illuminate the parking area. We can have a condition
17 that two new exterior lights must illuminate the parking area.

18 MS. PRUITT: Madam Chair, could you restate that.

19 MS. RENSCHAW: Two new exterior lights must
20 illuminate the parking area.

21 MS. PRUITT: Do you have a location? What they
22 should shine on?

23 MS. RENSCHAW: I do not, and D-DOT did not indicate.
24 D-DOT had said additionally, two new exterior lights are
25 proposed to illuminate the parking area.

1 MS. PRUITT: Okay.

2 MS. RENSCHAW: We can refer to the plan and see if
3 those lights are indicated. So, we'll pause just a moment here.

4 (Off the record at 10:21 a.m.)

5 (On the record at 10:21 a.m.)

6 MR. ETHERLY: Two exterior lights are indicated on
7 the revised plans dated March 27, 2002. They are indicated as
8 new Cobra Head Pole Mountain Exterior Lights near the dumpster
9 location.

10 MS. RENSCHAW: All right. We'll have that as a
11 condition in any case, and the placement of the lights are on the
12 D-DOT's plan.

13 Are there any additional points that you would like
14 to have as conditions?

15 MR. ETHERLY: Madam Chair, I feel pretty
16 comfortable with the conditions as they are laid out. You may
17 recall that we did have substantial conversation regarding
18 security arrangements at the center. If I recall correctly from
19 the prior hearing and the transcript, the center makes use of
20 volunteers, parents, staff members to assist in monitoring
21 children at all times, and of course monitoring during discharge
22 and pick-up. So I am comfortable with the conditions we've laid
23 out thus far and would feel more than comfortable moving forward
24 in support of a motion to approve the application.

25 MS. RENSCHAW: All right. And Mr. Hannahan?

1 MR. HANNAHAN: I concur, Madam Chair.

2 MS. RENSCHAW: All right. And we have adequate
3 parking for this. The traffic impact has been minimized. We
4 talked a great deal about the alley system for parking. The fact
5 that Irving Street is one-way arterial, it's a very busy street
6 and the necessity to have a safe location for the children to be
7 dropped off and picked up, and so we're very pleased that this
8 alley system drop-off has been perfected.

9 As far as design and screening, we have talked
10 about the security lights, and that these lights should be
11 shielded from shining into the first-floor apartments of the
12 nearby buildings.

13 With that, are we ready to vote?

14 MR. JENKINS: I am.

15 MS. RENSCHAW: All those in favor of the motion and
16 conditions.

17 (Unanimous ayes.)

18 MS. PRUITT: Staff would record the vote as 3-0-2
19 to approve motion made by Mr. Etherly, seconded by Ms. Renschaw,
20 with 11 conditions. Would you like for me to re-read --

21 MS. RENSCHAW: Yes, please.

22 MS. PRUITT: Okay. First condition. As approved
23 for five years, hours of operation 7:00 a.m. to 10:00 p.m., but
24 the site and parking lot must be cleared by 11:00 p.m.

25 MS. RENSCHAW: That should read to 10:30.

1 MS. PRUITT: Ten-thirty. Thank you.

2 No more than 150 children; no more than 31 staff;
3 all outdoor activities should be supervised by staff at all
4 times; all outdoor activities shall stop by 8:00 p.m.; staff is
5 always to monitor children's arrival and drop-off; grounds and
6 parking areas should be kept in a neat and orderly condition;
7 trash shall be kept onsite and picked up three times a week; all
8 appropriate licenses and CFOs should be kept current; and two new
9 lights for the parking area shall be provided.

10 MS. RENSHAW: Thank you.

11 MR. ETHERLY: Madam Vice Chair, I have just one
12 quick clarification. The motion was made by Mr. Hannahan and
13 seconded by Ms. Renshaw.

14 MS. PRUITT: Thank you.

15 MS. RENSHAW: And with that, the case has been
16 decided and we'll move on to our next case.

17 MS. PRUITT: I believe, Madam Chair, we're going to
18 take an executives break.

19 MS. RENSHAW: Very good. We'll take a break at
20 this point.

21 (Off the record at 10:25 p.m.)

22 (On the record at 10:26 p.m.)

23 CHAIRPERSON GRIFFIS: We'll call the next case or
24 announce the next case for the Board's consideration. I believe
25 the schedule, as revised, will be application 16875. Is that

1 correct?

2 MS. PRUITT: The next case is application 16875, of
3 All Soul's Episcopal Church, pursuant to 11 DCMR 3104.1, for a
4 special exception to allow the use of an existing accessory
5 parking lot for weekday parking under Section 213 in an R-4
6 district at 2000 Cathedral Avenue, N.W., Square 2208, lots 23 and
7 24.

8 The hearing was May 29. The decision date is July
9 2. On May 29, the Board granted priority status to Mr. Choharis.
10 There was some discussion also at the hearing on whether or not
11 variances from Section 213.2 and 213.3 were needed. However, the
12 Board determined that they weren't and so they reviewed this
13 application as a special exception.

14 At the conclusion of the hearing, the record was
15 closed, with the exception of the following requested
16 information: a parking enforcement plan; information on how
17 nighttime lighting would be handled; identification of the hours
18 of operation; and proposed findings of fact from the applicant
19 and party.

20 The Board established the following schedule for
21 submissions: June 17, 2002 submission of applicant to be filed
22 and served on all parties; June 24, response to submissions; June
23 26, findings of fact and conclusions of law due for June decision
24 today.

25 But before the Board can vote on this special

1 exception, we have received several -- we have several
2 preliminary issues to deal with. Since the 26th, we have
3 received four various items. The first is a letter on June 24,
4 which is after the record closed, in opposition from Mr. Dimino
5 stating that he was never notified by this applicant's proposal
6 by the church or the ANC. Staff did some research on this issue
7 and found that, in fact, Mr. Dimino was notified by this office
8 on March 25 -- exhibit 6 -- along with everyone else who lived
9 within 200 feet.

10 If the Board were to accept his letter, you would
11 have to waive the record to reopen the record and accept it and
12 then allow responses from both parties and applicants.

13 Do you want to do them individually or all at once?

14 The next item to deal with is applicants response
15 to party's response to management plan. The Board did not
16 request any of this information. Furthermore, procedurally, the
17 applicant does not have the right to respond to a party
18 submission when the record is closed, so that's a second one.

19 The third is a motion from the party requesting
20 that the Board reopen the hearing for three reasons. The three
21 reasons listed were All Souls omissions of facts or inaccurate or
22 misleading statement; lack of notice to residents in the
23 immediate area; and the development of new information.

24 And then we have from the applicant a response to
25 disregard that motion or request. Those are the four items.

1 CHAIRPERSON GRIFFIS: Very well. Thank you very
2 much. Okay, Board members, first, I thought it was it was
3 important for us to know the entire spectrum of the four issues
4 that are before us, before we jump into all of them. However, I
5 would take a motion on each individually in order to dispense.

6 Let me start generally. I believe that this Board
7 has currently held fairly strictly to its rules in not accepting
8 information after the close of record, and I would at the outset
9 be inclined to maintain that. Speaking specifically about the
10 first, which is the letter of opposition, I would clearly --
11 actually, I'm not sure that we necessarily need a motion on that.

12 I think perhaps we could just reach a consensus that we would
13 not accept them into the record, since the record was closed.
14 Again, as staff has stated, the fact of the matter was that
15 proper notification was provided. There was ample time for
16 submissions on this, and I do not believe, anyway, it would in
17 fact prejudice any of the interests of parties in this case, and
18 so I would ask your support on that, but I can take comments
19 also.

20 MR. ZAIDAIN: Mr. Chair, I would agree. The
21 process went through as mandated by law, in terms of the
22 notifications and things such as that. And we had a full hearing
23 on this at our regularly scheduled time. We were specific on
24 what we wanted to see from the applicant and the parties. I
25 would be inclined to strike all of this from the record that came

1 in after the closing of the date.

2 CHAIRPERSON GRIFFIS: Okay.

3 MS. RENSHAW: So, Mr. Zaidain, you're talking about
4 all of them and not one at a time?

5 MR. ZAIDAIN: That's the Chair's pleasure.

6 CHAIRPERSON GRIFFIS: Well, let's see the first
7 consensus not to accept. No opposition? Okay.

8 The second is the applicant's reply to the party's
9 response to the management plan. Again, I think there's ample
10 information in the record that was properly presented to us in
11 order for our own deliberations. And not having reviewed this
12 yet, I do not see how it could, in fact, in-fill any information
13 that might be lacking, for our purposes. So I would also support
14 not accepting that into the record. And I would just ask if
15 anyone opposes that, to let that be known. If not, we can take
16 that as a consensus and move on.

17 Now, the motion for the party requesting the Board
18 to reopen the hearing for three reasons that have been stated by
19 the staff. That is, the applicant has omitted fact, inaccurate
20 or misleading statements, that there was a lack of notice to the
21 residents in the immediate area and that there was development of
22 new facts and information.

23 First of all, I think we can adequately state the
24 fact that there was no lack, from our records, of notification.
25 Is that correct? If we can reiterate that -- and staff is

1 indicating that that is correct. Our procedures and regulations
2 were followed. So I am not compelled to grant the motion for
3 reopening on that issue.

4 In terms of omissions of fact, inaccurate or
5 misleading statements, again, this is not one of the most
6 complicated cases we've seen. I think this Board was adequately
7 prepared to ask pertinent questions that went to the heart of
8 what we needed to find for our own deliberative purposes. Also,
9 ample cross-examination was available of all witnesses, and I
10 think information was elicited.

11 One might project, perhaps, some of the assertions.

12 And I think this Board is perfectly capable, in its own
13 deliberations, of distilling fact from fiction, reality from
14 unreality, and that is part of our own process. And therefore, I
15 don't feel that this would in fact be beneficial for this Board
16 to reopen the hearing.

17 Then, I would combine the third and fourth.
18 Obviously, applicant's response to disregard any further findings
19 I think becomes moot if we, in fact, on our own do not take any
20 in. And so I would hear opposition to that. And if there is
21 none, we can take that as a consensus and we will hold to the
22 closing of the record, which did close at the end of the hearing,
23 except for that information, which was specifically stated at
24 that time. And we have received all of the requested
25 information. So, we are ready to proceed.

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1 There's one clarification that did come to our
2 attention that was in the statement of facts. Ms. Renshaw, you
3 may clarify, but I believe it was by the application as a
4 clarification of the record. Clearly, we look at findings of
5 facts of each party of our parties and take them for what they
6 are for our own deliberative purposes.

7 There was a statement in there, and I believe you
8 had highlighted it, about why we had not actually entertained a
9 bench decision. I think it can be clearly stated that the
10 process of this Board in a contested case is not often to render
11 bench decisions but rather to give ample time. We also had
12 submissions that were required and, therefore, we could not have
13 had a bench decision at that time. So, it had not to do with
14 necessarily the Board members present or not present but rather
15 on our own procedures and need for further information. You can
16 add to that if I haven't hit it all.

17 MS. RENSHAW: No. You have hit on all the points,
18 just to thank you for clarification because it was a point that
19 needed to be cleared up, clarified. And the applicant should take
20 note of its misstatement in the statement of findings of fact,
21 page 14, number 18, and over on page 5.

22 CHAIRPERSON GRIFFIS: Good. Okay, as a review of
23 this entire case, just to get our thought process and
24 deliberative process well underway, we have a church parking lot
25 that is in existence and functioning for the church use. This

1 application is not asking for any change of that size, parking,
2 any sort of aspect, but rather is requesting through special
3 exception that we allow for alternative parking, being able to
4 offer parking spaces to adjacent residences and businesses in
5 this neighborhood.

6 It has come in with support from the ANC, and I
7 think we'll discuss some of those issues -- also, the Woodley
8 Park Community Association. The council member of Ward 1,
9 Council Member Graham also has written a letter supporting the
10 application, and OP and D-DOT were recommending granting.

11 I bring that up and for total clarification, of
12 course, this Board doesn't run a popularity contest and stack up
13 supports against opposition, but rather, we look for opposition
14 from the neighborhood in order to evidence some sort of adverse
15 effects of the neighborhood if the relief is granted.

16 There was, of course, a party in opposition that
17 brought up numerous issues, some of which I had difficulty with
18 actually deliberating on. On one hand, we had discussions about
19 how there are a thousand plus parking spaces available, perhaps
20 on a monthly, perhaps on a daily. That was not of great
21 importance to me. And therefore, these 17 spaces would not
22 mitigate the parking demand in the neighborhood, which it was
23 testified to can, in fact, cause a saturation or a taking of the
24 free parking on the street of the neighborhood because of the
25 commercial district.

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1 So, you have on the one hand, this isn't going to
2 do anything to relieve the free parking available.

3 MS. RENSHAW: No.

4 CHAIRPERSON GRIFFIS: On the other hand, it's
5 argued that these 17 spaces will actually go to increasing
6 detrimental traffic along with a place within the neighborhood --
7 it will increase the pollution. So, it sounds like it has a huge
8 impact on these negative aspects but a non-impact on a positive
9 aspect, which is relieving the parking. That's a hard balance to
10 strike.

11 I, for one, was not compelled by the fact that it
12 would create an incredible increase in population or traffic in
13 the neighborhood. I am aware, and actually feel fairly strongly,
14 that we don't want, in this city, to encourage driving. We want
15 to discourage it and encourage the use of public transportation.

16 But there is a point that even with the encouragement of mass
17 transit, we do have an awful lot of parking going on.

18 This, to me, does not seem to me to be a case that
19 is on that fence of one or the other, in the fact that we are not
20 talking about thousands of spaces. We are not talking about
21 creating parking, surface parking or garage parking. We're
22 actually talking about how an existing parking surface could be
23 better utilized during the week when it isn't used by the
24 specific church.

25 Lastly -- and I will let you guys talk -- there was

1 the concern of the party in opposition that, if I might
2 generalize, a not-safe condition would be created based on the
3 fact that we would have cars parked there overnight. Meaning, it
4 would be -- and this is not direct testimony, but it's my
5 interpretation -- a magnet for crime, and would encourage crime
6 and noise. I was not convinced that the logical progression is
7 that if there are cars there, they could become targets for
8 theft, either from items in the cars or theft of the cars
9 themselves.

10 There are lots of cars that are available, whether
11 there are an additional 17 in this lot or not. In fact, it may
12 do the opposite, if you have people that would animate. If they
13 would use it at different times, you would have people who, by
14 the mere fact of being present, would be able to patrol the area
15 and comings and goings. With that, why don't I give you others
16 an opportunity to speak.

17 MS. RENSHAW: Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Yes.

19 MS. RENSHAW: In discussing a parking lot in a
20 neighborhood a little bit removed from a commercial area, one has
21 to be concerned about whether or not this is going to become a
22 nuisance. One of the things that struck me when I went through
23 the management plan is that there was nothing in this management
24 plan that would address problems that could arise -- I'm not
25 saying that they will arise -- where the operation of a parking

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1 area in a more concentrated than has been in the past.

2 I don't think it should be on burden of the
3 neighbors to take on the responsibility of calling the police or
4 alerting the church about any problems in the parking lot. That
5 should not have to happen. So, I would like to propose that if
6 we are entertaining approval of this parking lot, there be some
7 mechanism for the residents to call a hotline and report
8 immediately and then have that burden taken on by the owner of
9 the lot, which is the church.

10 CHAIRPERSON GRIFFIS: This may be a pertinent issue
11 to talk about. It would help me if you would give some examples
12 of what kind of problems you are envisioning. For instance, if
13 there's somebody being mugged in the parking lot, I don't want to
14 call the church and see if the pastor's available.

15 MS. RENSHAW: You would call the police.

16 CHAIRPERSON GRIFFIS: Indeed.

17 MS. RENSHAW: But if there is a concern about just
18 noise in the parking lot -- a person's coming in late at night,
19 they want to take their car out, they're talking to someone who's
20 also in the parking lot, getting into the cars. They rev up the
21 motor; they don't drive away; they let it idle for a while. And
22 it becomes a nuisance. Somebody who has a bedroom that is more
23 pointed toward the parking lot would be annoyed; would be
24 disturbed.

25 When it's a problem like that, is there a way that

1 the neighbor could call into a church hotline and register a
2 complaint?

3 CHAIRPERSON GRIFFIS: Okay, so you're saying --

4 MS. RENSCHAW: Or does one have to wait until the
5 next day and then call up the church and say I want to speak to
6 the head of the administrative staff and lodge a complaint?

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. RENSCHAW: Now, the neighbor is not necessarily
9 going to be able to see the license number, the make and model of
10 the car, if it's dark. But there is a concern there. And I
11 think that a more intensive use of a parking lot in a residential
12 area has to be more directly controlled, have a few more burdens
13 placed upon the owner of the property than if it's in a
14 commercial area.

15 CHAIRPERSON GRIFFIS: That condition conceivably
16 happens all the time on the street parking that's available now,
17 correct?

18 MS. RENSCHAW: Yes.

19 CHAIRPERSON GRIFFIS: And so your point is, we
20 don't want to compound that problem.

21 MS. RENSCHAW: This is a one-way street. It is an
22 area that is not used to a great deal of traffic, other than
23 church parking and, of course, the Saturday use of the property -
24 - which brings up another point.

25 There was a statement in the parking management

1 plan whereby, if the church needed the property, then those on
2 the lot would have to vacate and park somewhere else. So, if
3 there is a concentrated use on a Saturday, then do I take it that
4 all the cars would then have to vacate the lot on the Saturday
5 for the market, or only a few? And if only a few had to vacate
6 so that a corner of the lot can be used for the market, where do
7 the persons associated with the market then park?

8 CHAIRPERSON GRIFFIS: They go on picnics for the
9 weekend, I suppose. I think it's a good point, and I think it
10 goes to the fact of good management from the church. I think
11 that regarding the management plan, I think it was clear that
12 they were able to give 24-hour notice. Certainly, they would set
13 up a schedule with the people that were parking.

14 My assumption would be that would be something that
15 you would have to take into account before you decided to rent a
16 parking space there. If you knew you probably wouldn't have a
17 space on Saturdays, conceivably, and I think going to the bigger
18 picture, this is a car that would be in the neighborhood and
19 would be looking on other days to occupy a space in the
20 neighborhood. Certainly, he would have to go somewhere.

21 MS. RENSHAW: Or, the neighborhood is going to have
22 to make other plans to have those associated with the farmer's
23 market park elsewhere, if they have been used to parking on the
24 lot.

25 CHAIRPERSON GRIFFIS: I see.

1 MS. RENSHAW: It says, K -- I'm looking at the
2 parking management monthly parking license agreement, K, on page
3 2, not to park in the far southwest corner of the parking lot
4 after six on Fridays from mid-May through mid-December to
5 accommodate set-up for the regular weekend farmer's market. And
6 those persons associated with the market probably parked -- I
7 would assume they parked on that lot during the time that the
8 market was in operation.

9 CHAIRPERSON GRIFFIS: Right. What are you
10 proposing? I mean, is there a solution to that?

11 MS. RENSHAW: Well, perhaps Mr. Zaidain would like
12 to comment on that and other points, and then I'd like to come
13 back to it.

14 MR. ZAIDAIN: Well, just -- I do apologize because
15 I was conferring with corporation counsel when this discussion
16 started. Your issue is what happens on Saturdays in the farmer's
17 market.

18 MS. RENSHAW: Yes.

19 MR. ZAIDAIN: It's my understanding, and I've got
20 the transcript in front of me, that it was testified that their
21 hours of operation will be midnight Sunday to midnight Friday.

22 MS. RENSHAW: For the lot.

23 MR. ZAIDAIN: For the lot.

24 CHAIRPERSON GRIFFIS: But that's for the people
25 outside of the church.

1 MR. ZAIDAIN: That's when it's available.

2 MR. ZAIDAIN: That's when it's available for people
3 outside the church, and then on the weekends it's preserved for
4 church functions. So, if somebody's coming in to the farmer's
5 market, they cannot park there anyhow, on a Saturday. That's my
6 understanding from the transcript.

7 MS. RENSHAW: Okay, but it says not to park in the
8 far southwest corner of the lot after six on Friday, from mid-May
9 through mid-December.

10 MR. ZAIDAIN: That mans they probably have staging
11 or something.

12 CHAIRPERSON GRIFFIS: Right.

13 MS. RENSHAW: Yes, but that means that those -- I'm
14 on the monthly parking license agreement.

15 SPEAKER: What page?

16 MS. RENSHAW: It's page 2. It's Exhibit E.

17 MR. ZAIDAIN: Go ahead and read it.

18 MS. RENSHAW: It's Exhibit E to number 34. So,
19 that just gives the feeling that some renters are going to be
20 allowed to stay on Saturday, but those renters who are in the far
21 southwest corner will not be able to, if that is where your space
22 would be.

23 CHAIRPERSON GRIFFIS: Well, I think the point in
24 all of this -- Mr. Zaidain does refresh my memory of exactly when
25 these were going to be available, which is important. I think

1 it's clearly that the management plan is setting out how they
2 will manage this, and when and where. And I think they're taking
3 it into account. So, I would imagine that that would be very
4 specifically outlined, as you're reading here, and perhaps even
5 moreso with people that look to sign leases or rent some of these
6 parking spots.

7 (Discussion off mic)

8 MR. ZAIDAIN: Well, the way I interpret that is,
9 there's a chunk of time -- the lot, in terms of its operation for
10 non-church use, is going until midnight Friday, so there's a
11 chunk of time from six to midnight when they cannot park in the
12 southwest corner of the parking lot, from mid-May through mid-
13 December.

14 MS. RENSHAW: So, if you have a space over there,
15 you can't. But if you don't have a space over there, you can't.
16 Do you see what I mean?

17 MR. ZAIDAIN: Um-hmm. Okay. Well, where does that
18 get us?

19 MS. RENSHAW: Just to continue, there's another
20 point I would like to bring up and that is, I wasn't quite sure
21 when I read this whether this space is assigned to a renter who
22 is an owner of a vehicle and/or a space assigned to a property
23 owner nearby who wants to rent the space for guests or whatever,
24 or to a business tenant who might use the space for such things
25 as employee parking of the month.

1 CHAIRPERSON GRIFFIS: Okay. I think that is fairly
2 clear. It is clear to my mind, and I think we can clarify that
3 in perhaps any order that would go out. But if you look at,
4 first of all, the parking identification tag, it goes to an
5 issuance of an individual and it has the license, tag and state,
6 which means it goes specifically to a car.

7 MS. RENSHAW: But I question whether or not that's
8 going to be what happens because I can see that parking pass
9 being given to someone else. Who's going to go around on a
10 regular basis and check the numbers on the tag versus the license
11 plate?

12 CHAIRPERSON GRIFFIS: Well, we can't do anything
13 about that.

14 MS. RENSHAW: No, but I'm bringing it up because I
15 think that there is a problem. I think that these parking passes
16 could be traded, if indeed a business tenant has rented, say,
17 five spaces, plus the fact if a business tenant has rented the
18 space for commercial use -- in other words, for patrons of a shop
19 or a restaurant -- then does the patron go to the shop, get a
20 tag, put the tag on the car?

21 CHAIRPERSON GRIFFIS: Clearly, that's not allowed
22 under this management. I mean, we can speculate that anything
23 could happen.

24 MS. RENSHAW: But the tenant could be a business.

25 CHAIRPERSON GRIFFIS: But it doesn't go to the

1 business. It goes to the specific business or person, and the
2 specific car.

3 MS. RENSHAW: It's not clear. it is not clear.

4 CHAIRPERSON GRIFFIS: It is clear. If you look at
5 the parking pass and the identification --

6 (Simultaneous conversation.)

7 CHAIRPERSON GRIFFIS: -- you have to have a license
8 number. It goes to a specific vehicle.

9 MS. RENSHAW: I still think that we're going to
10 hear of a situation or situations where the --

11 CHAIRPERSON GRIFFIS: I understand that, but then
12 if, in fact -- the other piece that it goes to is that it's not
13 allowed to sublease or assign to others. I mean, that's been
14 stated several times in this. So, it clearly going to -- I mean,
15 the intention and what's presented for us is for a specific
16 vehicle and a specific space. And then it becomes an enforcement
17 issue. I mean, we can't --

18 MS. RENSHAW: Who's enforcing?

19 CHAIRPERSON GRIFFIS: Well, we can discuss some of
20 that. I mean, we can speculate on anything. I mean, for God's
21 sake, these things could be -- they could go to Columbia Road and
22 get these fake tag passes and park up the whole thing.
23 Obviously, we don't have any --

24 MS. RENSHAW: But if you're living in the
25 community, these are concerns that are going to worry you. And

1 the community has a right to ask for a response from this Board
2 to make sure this doesn't happen. Are we satisfied with this
3 parking management plan as presented to us?

4 MR. ZAIDAIN: Well, that's broader question. I
5 think we're working through that. In terms of your issue of the
6 tagging, in terms of the permit, you can't be more specific than
7 a state, tag, issued-to information on the tag, unless you're
8 going to give the make and model of the car, which I wouldn't
9 advocate for.

10 I think the issue is enforcement.

11 MS. RENSHAW: And how's it going to be done?

12 MR. ZAIDAIN: I ask myself that question everyday
13 when I see the car with Massachusetts tags out in front of my
14 apartment everyday.

15 CHAIRPERSON GRIFFIS: What's the address?

16 (Laughter.)

17 CHAIRPERSON GRIFFIS: I'm in agreement with Mr.
18 Zaidain. There's a statement in the management plan also that
19 indicates that tenants are prohibited from assigning or
20 subletting their parking spaces to third parties. So, it's
21 clearly outlined and I don't believe we could ask for more
22 identification in within the management plan. Let us talk about
23 specific enforcements if we need to. Why don't we also --

24 MR. ZAIDAIN: Well, I think the enforcement is a
25 good issue because there's a lot of things -- I mean, the whole

1 issue here with this management plan is to mitigate the impact,
2 which is part of the special exception within the zoning. This
3 management plan is really the crux of that. It's now to mitigate
4 those impacts, so I think enforcement is certainly a relevant
5 issue that we need to get into.

6 CHAIRPERSON GRIFFIS: Okay. What are some of the
7 options for enforcement? Conceivably, in the past we have had a
8 number posted where someone could call to have a car towed, or
9 someone could call and either leave a message or make contact.

10 MR. ZAIDAIN: Well, the minimum threshold at this
11 point is if the Board is inclined to grant this and there's
12 conditions made in the order, then that becomes an enforcement
13 issue with DCRA. So there's already that. That's already there,
14 legally.

15 CHAIRPERSON GRIFFIS: Which is why we need to craft
16 any conditions that we might.

17 MR. ZAIDAIN: Right. And I would not advocate that
18 that's a secure threshold to stay with. I think there should be
19 a little bit more.

20 CHAIRPERSON GRIFFIS: I'm not sure I follow.

21 MR. ZAIDAIN: By default, the conditions that we
22 put into an order will be enforceable by DCRA, am I correct?

23 CHAIRPERSON GRIFFIS: Yes.

24 MR. ZAIDAIN: But in terms of that being the only
25 method of enforcement, I'm not sure I'm comfortable in just

1 leaving it at that. It's a very general point, so you've got
2 that level of enforcement with DCRA. Then whatever is above that
3 is something we have to come up with.

4 CHAIRPERSON GRIFFIS: We can't -- you want to
5 create some sort of enforcement?

6 MR. ZAIDAIN: Well, that's my question. You were
7 just talking about -- maybe I should let you go. You were
8 starting to talk about a hotline. Is that something that we want
9 to explore?

10 MS. RENSHAW: Well, it states here in the -- it
11 would be Exhibit 34, page 18. There's the statement by the
12 applicant, "If after the church office closes a tenant becomes
13 unruly and disruptive, residents are encouraged to contact the
14 police and report the nuisance or effect an arrest of the
15 offending party, as necessary." Now, we have to do something
16 better to not put the onus on the residents to report this. I
17 mean, there has to be a way for the residents to get some action
18 quickly, and the church cannot just wash its hands after the
19 office closes and not be attentive to the problems that could --

20 CHAIRPERSON GRIFFIS: I disagree. This church has
21 been in this neighborhood before most of that entire neighborhood
22 was built. My point is this. If anything happens on the street
23 in this city, it is the neighborhood's responsibility, the
24 community's responsibility, to call the police and to monitor its
25 own block, as we do our own neighborhoods in our community.

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1 There is no reason to say, now, somehow, because there's this
2 existing parking surface, we are somehow making it disconnected
3 with the community, that therefore the community has no
4 responsibility actually to take any action, but rather it's the
5 church that has to take entire action for maintaining --

6 MS. RENSHAW: It's the church's property.

7 CHAIRPERSON GRIFFIS: I understand that, but it's
8 also part of the community.

9 MS. RENSHAW: This is a new use.

10 CHAIRPERSON GRIFFIS: I don't think this --

11 MS. RENSHAW: It is a new use during the week.

12 CHAIRPERSON GRIFFIS: There is no -- I don't see
13 any reason why this --

14 MS. RENSHAW: And the church has to monitor this
15 property, whether the church is open or it's after the church
16 office closes.

17 CHAIRPERSON GRIFFIS: Right. My point is that I
18 think the community's still a part of the area and there's no
19 reason to look to how we take the community away from actually
20 patrolling or being a part of the entire area.

21 MS. RENSHAW: We're not saying the community is
22 going to be taken away.

23 CHAIRPERSON GRIFFIS: If something's happening in
24 the parking garage, again I would go to -- why would you want to
25 call the church? Why not -- if it's something that requires

1 police action, then police should be called. I think we need to
2 look at is, in terms of going directly to the use that's before
3 us, if there's some adverse effect in terms of having cars in
4 there that should not be in there, we can deal with that. And I
5 think the enforceability on that we can address. Having a towing
6 company number in the parking lot as part of the signage is a
7 perfectly appropriate way of doing it.

8 Frankly, from the community standpoint, if I lived
9 there and there was a problem, I would want the most expeditious
10 way to solve the problem. I don't want to go through a hotline.

11 I don't want to get a message from the church. I don't want to
12 have to wake up the pastor and have him come out and try to deal
13 with the situation. I want to go right to the source and get it
14 done and dealt with.

15 If I rent a parking space there and there's someone
16 in my parking spot, where I note that the three next to me are
17 totally illegal, I want the tow company's number, I want them
18 called and I want them towed out of there. That seems to be
19 fairly straightforward. It seems to be an easy way to do it.

20 Again, if there's an unsafe condition, of which I
21 do not believe and I have not persuaded that having cars there on
22 the off hours during the week would increase the crime in the
23 area -- if there's an unsafe condition, again, I don't want to
24 call some hotline. I want to call the police.

25 MS. RENSHAW: Well, there's -- you're -- I would

1 suggest that a resident do both. In other words, if it's an
2 unsafe condition, the resident is going to call the police --
3 yes. But also register the action with the church officials
4 immediately.

5 CHAIRPERSON GRIFFIS: Good. That's a good
6 clarification.

7 MS. RENSHAW: That's why I think there should be
8 some kind of a hotline.

9 CHAIRPERSON GRIFFIS: And I would agree to that.
10 Maybe my misunderstanding was that I thought you were advocating
11 for a number that they would call in an emergency to the church.

12 MS. RENSHAW: No. Emergency means that you would
13 reach out to the police, and the police would want that.

14 MS. RENSHAW: I have no problem -- in fact, I think
15 we could encourage or condition that the contact number be in the
16 lease agreement that's signed, and that all complaints go into
17 that number. It would not necessarily be a person 24-hour
18 hotline, but the message and the complaint could be lodged and
19 there would be a record. I mean, obviously we'd have the
20 community to keep a record of that and the church would keep a
21 record of that. That would be important. That, then, could
22 start to evidence any sort of continuing problem.

23 MS. RENSHAW: When you say community, are you
24 talking about the ANC and the Woodley Park citizens, or who are
25 you talking about?

1 CHAIRPERSON GRIFFIS: Well, I would go even more
2 informally than that, but yes, I would say the ANC. I mean, if
3 there was a continuing problem about monster trucks firing up in
4 the middle of the night, if there were ten complaints regarding
5 that, clearly that could be an issue that would be brought up for
6 the ANC to somehow deal with it. Of course, I don't anticipate
7 that scenario happening, but --

8 MR. ZAIDAIN: What, monster trucks?

9 CHAIRPERSON GRIFFIS: Yeah.

10 Well, just to make a point, again, if this were to
11 move forward and the Board were inclined to grant the parking lot
12 with conditions -- coming out of the conversation that we're
13 having now in terms of timing, permitting, things such as that,
14 nuisance. That order then becomes enforceable by DCR, which we
15 talked about. And if those things were continually broken, this
16 zoning order runs with the language that it's owned by the
17 church, so it would be my assumption that the church, in the end,
18 would be liable for any type of violation.

19 So basically, my point is that it would behoove the
20 church to make sure they're in compliance with the order because
21 in the end they're responsible.

22 CHAIRPERSON GRIFFIS: Correct. And there is
23 conceivably a new enforcement mechanism that will be implemented
24 shortly. So, yes, they are always in the --

25 MR. ZAIDAIN: Right.

1 CHAIRPERSON GRIFFIS: -- problem of either creating
2 problems in the community or more importantly they are putting
3 themselves up to the fact that they may be fined.

4 MR. ZAIDAIN: Exactly. So, in my mind, I don't see
5 the church as putting in this lot and saying okay, it's up to the
6 neighbors and the tenants in the surround community to enforce
7 this order, because in the end they are the ones who will be
8 responsible for it.

9 MS. RENSHAW: Yes.

10 MR. ZAIDAIN: It's just like if you build an
11 illegal addition on your house.

12 CHAIRPERSON GRIFFIS: Right. Last issues then.

13 MR. ZAIDAIN: There was an issue brought up by the
14 party in opposition that I don't think was adequately addressed
15 in the management plan, and that was the access point. There was
16 a lot of talk about a chain and things such as that, which I
17 thought was good point to bring up.

18 There was discussion about that being mitigated for
19 the access for the lot. But in terms of the main access from the
20 road, there was no real discussion about how that was going to be
21 achieved, at least from what I could tell in reading the minutes.
22 And I don't know if we want to get in this discussion about entry
23 features, security features. I mean, there was talk about a
24 security guard, and I don't think that for a lot of 21 spaces --
25 actually, 17 that will be used for non-church use, that it's

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1 worth a security guard being there, especially with a private
2 piece of property.

3 CHAIRPERSON GRIFFIS: I agree. I don't see the
4 necessity for a 24-hour security guard or a security guard on the
5 premises, but I do think you bring up an excellent point. One,
6 the party in opposition has talked about the concern of having
7 traffic coming in and out of the parking lot. I think with a
8 more manual control, that being a chain across, would by
9 definition have an idling car at the curb cut coming in. The
10 chain was testified to being dragged across the road. That was a
11 little dramatic. I mean --

12 MR. ZAIDAIN: But there's also character issues
13 there. I mean, that's the main entrance of the lot. I would
14 rather see nothing there before a chain.

15 CHAIRPERSON GRIFFIS: And that's where I'm going
16 with that. Perhaps we want to talk about how that might be dealt
17 with. I think the mechanism of chaining is, I think, more
18 appropriate to closing off the parking when it's closed and not
19 being used. If we're talking about having cars being able to
20 come and go, I do not believe that's appropriate. I would agree
21 with you, Mr. Zaidain, that perhaps nothing is better than the
22 chain when the surface parking is in operation.

23 Based on the fact that we have, clearly, the
24 management plan that outlines what cars should be there, and
25 therefore identifying the ones that should not be there, it seems

1 to me that it may be appropriate to remove that chain during the
2 operation of the parking.

3 MR. ZAIDAIN: Wait a second. Remove the chain
4 during the operation of the parking, or remove the chain, period?

5 CHAIRPERSON GRIFFIS: Right. When the parking is
6 in operation. That's basically all week, unless there was a time
7 period which would not -- at this point, it's undefined to me --
8 to be used. That's when you would close it off with a chain.

9 MR. ZAIDAIN: That time frame is so minimal because
10 you've got midnight Sunday to midnight Friday, and then
11 immediately Saturday morning there could be a church function, so
12 you've got maybe a seven-hour time period from midnight Friday to
13 Saturday morning when the lot's coming back into use. I would
14 advocate not having a chain at all. I just think there's too
15 many contingency problems from the noise, the appearance -- and I
16 can't imagine them wanting to have somebody out there at 12:01
17 Saturday morning to put the chain up when it may conceivably just
18 come right back off at 7:00 a.m. Saturday morning.

19 CHAIRPERSON GRIFFIS: Okay. What else?

20 MS. RENSHAW: Just a small point on this
21 subletting, Exhibit 24, page 14 -- it stated that tenants are
22 prohibited from assigning or subletting their parking spaces to
23 third parties, and it references Exhibit E, paragraph 2(a).
24 However, 2(a) states that licensees further covenants and agrees
25 as follows: (a) not to assign this agreement or sublet the

1 parking space without the prior written approval of the church.

2 So, the church could approve the subletting of parking space.

3 And then we get into the situation of an agreement
4 with a holder of one or more parking spaces, being able to
5 perhaps sublet or hand out the parking pass.

6 CHAIRPERSON GRIFFIS: It sounds like that's a
7 provision to allow flexibility, if it was actually changing the
8 car that was to use the parking space.

9 MS. RENSHAW: But it's not clear. So, where it
10 says -- it's very definite on page 14, "Tenants are prohibited
11 from assigning or subletting their parking spaces to third
12 parties." In the license agreement, it's not as clear.

13 CHAIRPERSON GRIFFIS: Well, I think it's clear, the
14 intention. I think we can just restate that.

15 Other issues?

16 MR. ZAIDAIN: Just to talk about the assignment of
17 the contract, it's not going to increase the vehicles. The
18 permit has to be transferred as well. So in terms of that type
19 of discussion, as long as everything that we're discussing here
20 and all of the conditions and things that we may or may not be
21 instituting to mitigate the lot, as long as that's transferred,
22 or within an agreement to the subletter.

23 CHAIRPERSON GRIFFIS: It sounds like, with written
24 approval, it seems to be almost a new agreement. I mean,
25 certainly that next individual has to abide by the entire --

1 MR. ZAIDAIN: Yeah, I don't think we want to put
2 ourselves in the position where we're regulating their contracts,
3 as long as they're meeting the conditions.

4 CHAIRPERSON GRIFFIS: Right. All right. Other
5 issues?

6 MS. RENSHAW: Anything to do with screening?

7 CHAIRPERSON GRIFFIS: Also an issue that came up --

8 MS. RENSHAW: Lighting.

9 CHAIRPERSON GRIFFIS: -- I think was pertinent to
10 bring up. I think the case was substantially made. In fact, the
11 pictures that were recently submitted with the management plan
12 (inaudible) show, in fact, how, from the residential strip, the
13 screening that I find is adequate and appropriate. On a larger
14 issue -- I'll let that thought go.

15 MR. ZAIDAIN: I would just say that they refer to
16 trees bordering the lot and things such as that, that need to --
17 I mean, those things need to be maintained, and if they are
18 removed or die, they are replaced. It's one thing to say that
19 the landscape is adequate; it's another thing to make sure that
20 it stays adequate.

21 MS. RENSHAW: Well, I'm looking at one of the
22 pictures. This is in Exhibit A. It doesn't look to have too
23 much screening in the back of the parking lot at all.

24 CHAIRPERSON GRIFFIS: You mean, on the alley?

25 MS. RENSHAW: On the alley, yeah. And in the front,

1 off of Woodley Place, there is one very mature tree on the right-
2 hand side. This is early spring and the tree on the left-hand
3 side is not out, is not fleshed out yet. So there may be, in a
4 request to the church by the area residents, by the community
5 associations, to have more evergreen plantings, if it can be
6 accommodated.

7 CHAIRPERSON GRIFFIS: You're referring to the tree
8 on the left?

9 MS. RENSHAW: No. Right there.

10 CHAIRPERSON GRIFFIS: Well, same thing here.

11 MS. PRUITT: Excuse me, Mr. Chair. I just wanted
12 to, I guess, reiterate that regs call for a requirement of five
13 percent. Of course, the Board can change that, and it's usually
14 around the perimeter.

15 MR. ZAIDAIN: Yeah, there was a statement in there
16 that they said they met the regulations, but I don't think there
17 was a calculation made.

18 CHAIRPERSON GRIFFIS: I would not tend to move into
19 re-landscaping and trying ourselves to design a landscaping plan.
20 Frankly, the only thing that I find fairly difficult when
21 looking at that is the chain link fence. But I'm not overly
22 moved to mandate the changing of that, in that it's an existing
23 condition, albeit a bad one.

24 I don't think it goes directly to the fact of how -
25 - to this specific application. I can't tie it right into how

1 changing that goes to mitigating the adverse impact of having
2 this utilized during the entire week. And believe me, I try and
3 control myself when we get into design issues, so I'm trying to
4 hold back on this. But I'll leave it to others, if they think
5 that it is something of major discussion that needs to take
6 place.

7 (No response.)

8 CHAIRPERSON GRIFFIS: It doesn't sound like it, so

9 --

10 MR. ZAIDAIN: Well, I mean, I really wish that tree
11 was in bloom. It would make the picture look a lot better. But
12 I do agree with you.

13 MS. RENSHAW: It's just that more evergreen
14 plantings would enhance the look of the area, would offer more of
15 a buffer to the residents of Woodley Place.

16 CHAIRPERSON GRIFFIS: There's two trains of thought
17 with that. If you buffer it, if you put a wall around it and put
18 in tall evergreens, you can't see in. Therefore, the parking lot
19 can't be patrolled by people walking down the street. There
20 could be somebody hiding behind the wall; there could be somebody
21 crouched behind a car, ready to break into it. There's the
22 aspect of it. Do you want to isolate it totally, or do you want
23 to have -- I think you want to have some sort of good balance,
24 where you can look in, you can patrol it from the street as
25 you're walking by; you can feel safe while in there because you

1 know that you are visible from other areas.

2 I'm not in agreement that we would cover the entire
3 thing with shrubbery. Not to mention, I would assume, with the
4 restaurants and commercial area down from the residential and
5 sharing that alley -- well, I can't assume, but I would perhaps
6 think that there might be a rodent problem sometimes, as there is
7 on occasion in urban areas that share that. Once you start
8 putting low-lying vegetation, you start giving habitats for areas
9 that catch trash and things like that. So, you know, there are
10 positives and negatives for all.

11 MR. ZAIDAIN: I would be agreement with you, Mr.
12 Chair. I would just ask that the landscaping that's there be
13 maintained and anything that may be removed has to be replaced.

14 CHAIRPERSON GRIFFIS: Indeed. In fact, I think
15 that is, in fact, a very wise thing to do, and it is part of the
16 regulation. It certainly is in 1023. I think that this surface
17 area, the entire area, would be maintained properly, and free and
18 clear of debris that the surface would be maintained. It had
19 been stated that it was going to be re-stripped.

20 I think we would also, in terms of the area, put that to the
21 chain-link fence, that it would be maintained and repaired as
22 required. Perhaps just on the record, we can say that it
23 wouldn't be a bad idea if they put a nice fence around the place,
24 but not condition it. Clearly, taking out some of the vegetation
25 that's growing up in through the chain-link fence and cleaning

1 that up a little bit would be overly burdensome, and in fact
2 would --

3 MS. RENSHAW: I don't think it would be overly
4 burdensome to enhance some plantings, to put in some plantings
5 around the fence so that it looks a bit better than what those
6 pictures show.

7 CHAIRPERSON GRIFFIS: Okay. All right. Other
8 issues?

9 (No response.)

10 CHAIRPERSON GRIFFIS: Lighting. No one wants to
11 touch lighting?

12 (No response.)

13 CHAIRPERSON GRIFFIS: Okay, clearly the submission
14 that we've been represented is in two forms, in the plan and also
15 in the photographs, there's evidence of lighting in the
16 surrounding area. They are relying on adjacent building
17 lighting. In most cases, I might have some concern with that;
18 however, it's fairly clear that there won't be any obstructions
19 that will then remove that lighting source. In that it's a
20 residential area, I don't think we want to flood this constantly.

21 I do have a concern about the lighting that's on
22 the church. It is my assumption that that is dusk-to-dawn
23 lighting or some sort of motion -- I think the uplighting on the
24 church as described was described in that function. I would just
25 make a point in stating that it would be appropriate that the

1 spotlighting that was described, on the corner of the church as
2 you come in, I would think that that would be a good place to
3 have a motion sensor so that, as a car pulled in or somebody
4 walked into the parking lot, that would turn, illuminating the
5 entrance and the drive aisle and the area immediately as you come
6 off the street, but would not shine constantly. I think that
7 would be an appropriate place.

8 There's also, if I'm not mistaken, lighting on the
9 doorwell and stairwell into the church, and I'm assuming that
10 that is on continuously through the night, which I think is
11 probably a good idea.

12 MS. PRUITT: Excuse me, Mr. Chair. Where would
13 that lighting be located again?

14 CHAIRPERSON GRIFFIS: Good point -- it's indicated
15 as lighting type A, and it is at the corner of the church. Of
16 course, the church has a lot of corners. But its existing
17 fixtures adjacent to the parking lot entrance.

18 MR. ZAIDAIN: I have a general question, not
19 knowing the zoning regulations by heart. Is there a foot-candle
20 standard for parking lots in residential areas anywhere in the
21 D.C. zoning code?

22 CHAIRPERSON GRIFFIS: No, it's clearly not in the
23 zoning, but I wonder if it isn't in building code.

24 MR. ZAIDAIN: It's usually in zoning, actually,
25 from my experience.

1 CHAIRPERSON GRIFFIS: Is it?

2 MR. ZAIDAIN: It may very well be in the building
3 code.

4 CHAIRPERSON GRIFFIS: Well, get a red pen and write
5 it in there, Mr. Zaidain. I think the provision that clearly we
6 have -- and I think it's an excellent point, not only the lumens,
7 but the hue value and how we assess that.

8 MR. ZAIDAIN: Right. I didn't know if there's any
9 kind of standard that we can use as a baseline.

10 CHAIRPERSON GRIFFIS: It's not aware to me that
11 there's any sort of standard that they deal with.

12 MS. PRUITT: It's not in zoning. It may be in the
13 electrical codes and when they go for permitting there.

14 CHAIRPERSON GRIFFIS: It's a good point. This
15 Board can bring text amendments to the Zoning Commission.

16 MS. PRUITT: Exactly.

17 MR. ZAIDAIN: We can or we can't?

18 CHAIRPERSON GRIFFIS: We can.

19 MS. PRUITT: I will say, as part of information,
20 say that this office has been working with the building codes to
21 sort of bring them both into -- make them closer together so that
22 they're not more opposite disparity, so far apart.

23 CHAIRPERSON GRIFFIS: Good. But we digress. Let
24 us get to the application at hand, and I think we are at a point
25 where we can entertain a motion, and therefore, I would move that

1 we approve Application 16875, the All Souls Memorial Episcopal
2 Church under a special exception to allow the use of an existing
3 parking lot for weekday parking under Section 213 in the R-4
4 district. Clearly, this, under the definition, becomes an
5 accessory parking to the adjacent commercial. And this is at the
6 premises 2300 Cathedral Avenue, N.W. And I would ask for a
7 second on that motion.

8 MS. RENSHAW: Mr. Chairman, you are going to go
9 through the conditions afterwards?

10 CHAIRPERSON GRIFFIS: Yes.

11 MS. RENSHAW: You want to vote on the motion first?

12 CHAIRPERSON GRIFFIS: Good point. I'll state the
13 conditions of the motion. The conditions that I have noted would
14 be re-striping of the surface parking; adequate and appropriate
15 lighting, as discussed, and that would either be motion or dusk-
16 to-dawn; there would not be allowed --

17 MR. ZAIDAIN: Mr. Chair, motion or dusk-to-dawn?

18 CHAIRPERSON GRIFFIS: -- yes. I mean, it's an
19 existing piece, and if it's functioning, I think the intention is
20 there -- that the parking spaces would not be reassignable or
21 able to be sublet on a temporary basis; proper and adequate
22 signage would be provided indicating as is current, but
23 indicating the private parking lot by permit only --

24 MR. ZAIDAIN: With some sort of towing statement.

25 MS. RENSHAW: A towing statement.

1 CHAIRPERSON GRIFFIS: -- Indeed. Right, good point
2 -- and that I would -- I guess I would include also a condition
3 that, within the lease agreement, numbers be provided to lodge
4 complaints, concerns and compliments --

5 MS. RENSHAW: Twenty four-hour.

6 CHAIRPERSON GRIFFIS: -- yes. I think the phone
7 would be working 24 hours, with a machine or a person -- and that
8 a towing company number would be provided to all lessees, so if
9 there was any difficulty or inappropriate cars in the parking
10 lot, they could be removed.

11 MR. ZAIDAIN: Mr. Chair?

12 CHAIRPERSON GRIFFIS: Yes, sir.

13 MR. ZAIDAIN: Can I suggest that we have a
14 condition stating landscaping be adequately maintained and kept
15 at its current amount, if that's the proper language?

16 MS. RENSHAW: Or enhanced with ever green.

17 CHAIRPERSON GRIFFIS: Good.

18 MR. ZAIDAIN: Are we going to make that a
19 condition? I'm not sure I'd be in support of it.

20 CHAIRPERSON GRIFFIS: No. I believe she said "or".

21 MR. ZAIDAIN: "Or", okay.

22 CHAIRPERSON GRIFFIS: So, we won't limit them from
23 adding on to the landscape.

24 MR. ZAIDAIN: Would it be wise to say in the
25 conditions, just to make it reiterated, that all cars in the

1 parking lot must be permitted, must have a permit on their
2 vehicle, or do you think the lease agreement will safeguard that?

3 MS. RENSHAW: It doesn't hurt. State it again.

4 CHAIRPERSON GRIFFIS: I think you can state it more
5 appropriately and strongly, and that is that this is permit
6 parking only.

7 MR. ZAIDAIN: Well, I'm just saying, all vehicles
8 must have their permit.

9 CHAIRPERSON GRIFFIS: That's fine. I mean, I think
10 we can make it adequately that, as part of the management plan,
11 in our deliberations we are looking at adherence to the
12 management plan. It's a good point. I want to phrase it in a
13 condition that is actually appropriate and enforceable by DCRA.

14 MR. ZAIDAIN: Okay.

15 CHAIRPERSON GRIFFIS: So I want to encompass as
16 much as possible under that.

17 Okay. Other tack-ons?

18 MS. RENSHAW: It is hoped that the management plan
19 would be circulated to the abutters to the property, so that they
20 would have the information about the telephone numbers, if there
21 were concerns.

22 CHAIRPERSON GRIFFIS: I think we can make that a
23 direction. I would be hesitant to make that an actual condition.
24 What we ought to do is give strong advice from this Board to the
25 applicant that they have a management plan available on premises

1 for residents to review, if needed.

2 MS. RENSHAW: Well, I would like to have the
3 applicant communicate with the residents and share the
4 information about telephone numbers, where the church officials
5 can be reached off-hours and the towing number if necessary, and
6 also if there's any nuisance in the neighborhood, and in
7 emergency to call the police and then call the hotline.

8 CHAIRPERSON GRIFFIS: I think we can direct
9 applicant to provide that information to the ANC member.

10 MS. BAILEY: Mr. Chair, was there a time limit with
11 this?

12 CHAIRPERSON GRIFFIS: Not that I heard discussed.

13 MR. ZAIDAIN: That's an interesting point,
14 actually.

15 CHAIRPERSON GRIFFIS: Mr. Zaidain, would you like
16 to pick that up?

17 MS. RENSHAW: I'd recommend two years.

18 CHAIRPERSON GRIFFIS: Mr. Zaidain, comments?

19 MR. ZAIDAIN: Well, it's hard to assess that
20 without having some sort of standard. I mean, I think it's a
21 good idea. I think it's been a practice of a lot of --

22 CHAIRPERSON GRIFFIS: Put it in perspective, two
23 years is almost unrealistic in its shortness. By that time,
24 you'd be basically reapplying as soon as the order goes out. Two
25 years also doesn't give great time to evidence the workings of

1 it. In huge controversial cases in the past, the Board has put
2 three to five years on similar uses. And I think what it comes
3 to in the important pieces is, how questionable do you think we
4 are in terms of the potential for adverse impacts on the
5 neighborhood? And if you are, we will discuss having some sort
6 of shortened time period.

7 If you think that we have logically looked at all
8 the issues, and through our own conditions will mitigate any of
9 the problems that can be mitigated, then I think it's appropriate
10 not only for the Board's schedule but also for the applicant's
11 burden to put a rational time period, if a time period is on it.

12 And I think that goes anywhere from -- probably beginning with
13 five to eight to ten years.

14 MR. ZAIDAIN: I don't think I would go that long.
15 I think five would be reasonable.

16 MS. RENSHAW: I think three. I would move from two
17 to three.

18 MR. ZAIDAIN: Are we going to vote on the
19 conditions?

20 CHAIRPERSON GRIFFIS: Well, we've got to do
21 something. All right, we're going to break out the time period
22 with the entire motion with the other conditions, and we can vote
23 on that separately.

24 MR. ZAIDAIN: Okay.

25 CHAIRPERSON GRIFFIS: The last thing that wasn't

1 talked about was the chain. Mr. Zaidain, do you want to speak to
2 the chain issue?

3 MR. ZAIDAIN: Yeah, I would just advocate the
4 position saying no chain on the main entrance. That was just my
5 concern.

6 CHAIRPERSON GRIFFIS: Okay, so the parking lot
7 would be open or --

8 MR. ZAIDAIN: I mean, I'm not interested in binding
9 their hands either way. The only way I wanted to bind their
10 hands was just no chains.

11 CHAIRPERSON GRIFFIS: I think the appropriate -- we
12 can get the wording crafted later -- but I think the appropriate
13 thing is to indicate that the chain is not an appropriate means
14 of closing it off. If in fact there was an appropriate means;
15 for instance, an electronic drop or electric gate that could be
16 utilized from the car, that would not stop cars and have to idle
17 cars for very long in that area and manually move a barrier.

18 MR. ZAIDAIN: Well, that's my concern. If we
19 require them to have some kind of gate there, at all times, I
20 mean, you could have a traffic jam down the street. You know, I
21 don't think that's an issue that we need to really explore. I
22 was just worried about -- I mean, they may want to devise a way
23 to have a quietly sliding gate there --

24 CHAIRPERSON GRIFFIS: Right.

25 MR. ZAIDAIN: -- or something to that effect. But

1 that's something that we don't have information on. I'm just
2 concerned about the gate. I think it was a good point raised by
3 the -- or about the chain, I'm sorry. That was a good point
4 raised by the party in opposition and I think we should take care
5 of it.

6 CHAIRPERSON GRIFFIS: Okay. So we're moving away
7 from the manual operation of closure in that parking lot.

8 MR. ZAIDAIN: So, should I second that motion,
9 then?

10 CHAIRPERSON GRIFFIS: That's what we need.

11 MR. ZAIDAIN: I will second that motion.

12 CHAIRPERSON GRIFFIS: Thank you very much.

13 MS. RENSHAW: That's on the chain.

14 (Simultaneous conversation.)

15 CHAIRPERSON GRIFFIS: No, that's on the entire
16 motion, all conditions.

17 MR. ZAIDAIN: Except for the timeframe.

18 MS. RENSHAW: Except for the timeframe.

19 CHAIRPERSON GRIFFIS: So, then, that motion is
20 before us and has been seconded, in which case I would ask for
21 all those in favor.

22 (Unanimous ayes.)

23 CHAIRPERSON GRIFFIS: Opposed.

24 (No response.)

25 CHAIRPERSON GRIFFIS: Very well. Let's very

1 briefly, folks, talk about time limits on this. I would advocate
2 for a five-year time limit conditioned to the original motion
3 that has been approved by this Board. I think that gives ample
4 time to set up to address any issues that come up, and we can
5 also have a time period that when it does in fact come back,
6 there is time for set-up operation. If there are difficulties,
7 there's actually time also to cure those difficulties and create
8 new plans for it. I think anything below that actually becomes,
9 frankly, burdensome on the community, on the Board and on the
10 applicant, meaning they're all coming back here very soon.

11 MS. RENSHAW: I don't agree, Mr. Chair. I have
12 advocated three years. I would be willing to move to four, if you
13 and Mr. Zaidain would go from five to four.

14 CHAIRPERSON GRIFFIS: Mr. Zaidain.

15 MR. ZAIDAIN: I would support four.

16 CHAIRPERSON GRIFFIS: Four years -- a nice even
17 number. tack on six months to it?

18 MS. RENSHAW: No.

19 MR. ZAIDAIN: About four years and six months.

20 MS. RENSHAW: Four years.

21 CHAIRPERSON GRIFFIS: All right, folks, this is
22 existing parking for 17. We have spent ample time talking about
23 it. Let us move for four years, approval on the special
24 exception.

25 MR. ZAIDAIN: In all seriousness, I do think that's

1 a good period of evaluation. I do think going two or three, the
2 way things are processed and the way things can change in an
3 urban area's a little too short. I think four years is good.

4 CHAIRPERSON GRIFFIS: I understood you were talking
5 seriously.

6 MR. ZAIDAIN: When I suggested the four years six
7 months, I was not talking seriously.

8 CHAIRPERSON GRIFFIS: Indeed. All right, four
9 years. Is that consensus?

10 MS. RENSHAW: Yes.

11 MR. ZAIDAIN: Yes.

12 CHAIRPERSON GRIFFIS: Very well. Let's move on,
13 then, and why don't we record the vote, then, and we can read
14 back all the conditions.

15 MS. PRUITT: Excuse me, Mr. Chair. Are you going
16 to vote separately on that? Or, you voted on the years by
17 consensus?

18 CHAIRPERSON GRIFFIS: Years in consensus, for four.

19 MS. PRUITT: Okay. You did vote -- well, then, the
20 Board voted for four years by consensus, but the motion to
21 approve the special exception made by Mr. Griffith is seconded by
22 Mr. Zaidain, including all the conditions. And the Board voted
23 3-0-0 to approve, with the conditions as indicated.

24 CHAIRPERSON GRIFFIS: Good. Thank you very much.
25 Okay. Board members, we have one more case in the afternoon. We

1 have a member that is joining us. I think it's appropriate that
2 we take 15 minutes and come back to hear the last case.

3 MR. ZAIDAIN: I will not be sitting on this case.

4 CHAIRPERSON GRIFFIS: Okay, then you can stand.

5 We will be back.

6 (Off the record at 11:38 a.m.)

7 (On the record at 12:00 noon.)

8 CHAIRPERSON GRIFFIS: We are back on the record and
9 can resume. As soon as staff is ready, we can announce the last
10 case for deliberation this morning.

11 MS. PRUITT: The last case on the agenda is an
12 appeal, Appeal 16839 of ANC Commission 4A, pursuant to 11 DCMR
13 3100 and 3101, of the decision of the zoning administrator for
14 the issuance of a Certificate of Occupancy number 18366 dated
15 August 31, 2001, for an elderly development center serving 30
16 people, ages 22 to 85 years old, and 7 staff, in a C-2a district,
17 at 5511 14th Street, N.W., Square 2800, lot 9.

18 The hearing was on March 26. The decisions dates
19 were June 4 and July 2. The appellate is ANC; the appellee is,
20 of course, DCRA. At the hearing, Mr. Chagnon requested that the
21 Board incorporate relevant exhibits of previous BZA cases.
22 However, the Board did indicate to him that that was
23 inappropriate for the Board or staff to provide the information,
24 and it was his responsibility to provide the information.

25 We did not receive any information or exhibits from

1 Mr. Chagnon in reference to that. Other than that, I believe we
2 received the information requested. However, on March 26, the
3 Board concluded the hearing and requested the following
4 information from DCRA:

5 A resume from Toye Bello;

6 Definition of "elderly", as found in the
7 dictionary, that is used by the zoning administrator;

8 A copy of the citations that were used to issue to
9 the Metropolitan Day Treatment Center for non-compliance with
10 certificates of occupancy; and

11 Verification of past use.

12 The Board also established the following timelines:

13 May 13 -- submission of all requested information;

14 May 20 -- responses to information; and

15 May 20 -- findings of fact due for June 4 decision.

16 At the June 4, decision public meeting, the Board
17 granted the appellant's request for an enlargement of time to
18 submit proposed findings on June 17 for decision today. All
19 information the Board requested has been filed timely, and this
20 has now before you for decision.

21 CHAIRPERSON GRIFFIS: Thank you very much. And I
22 would note we are joined by the esteemed Mr. Parsons, who is on
23 this case and I believe has a brief statement to the fact of
24 reading the testimony, having left a small part of the hearing,
25 early.

1 MR. PARSONS: Yes. As noted in the transcript, I
2 had to leave at 5:15, and the hearing went on until 6:45. I have
3 read the transcript.

4 CHAIRPERSON GRIFFIS: Good. Thank you very much.
5 This was clearly a fairly long and complicated case, as most
6 appeals are. It seems to me to boil down to the large issue of
7 whether the zoning administrator had erred in issuing the C of O
8 by utilizing, as testified, known concept of "like use", which
9 permits the zoning administrator to interpret uses that are not
10 specifically defined in the regulations.

11 Then, I think it goes, secondly, to the issue of
12 parking with the change of use, which I know was testified to as
13 a happening use change, therefore the parking requirements being
14 a vote for the new use.

15 I will open discussion. I think we can be fairly
16 concise with that. As I was looking at the first issue, and that
17 is whether there was an error in the issuance in the C of O, I
18 went again and again to the definition as stated in the
19 regulation. We had testimony and did have submissions of
20 definitions of "elderly". I think I was compelled to agree with
21 the fact that these folks in this specific facility were not
22 elderly. However, going to the phrase that is pertinent to my
23 deliberation is the fact that it ends with elderly care programs
24 -- let me read, actually, the definition, "encompasses facilities
25 generally known as senior care/elder care programs, and similar

1 programs and facilities." It seems to me to give a broad reach
2 and generalization not tied to age-specific but rather to
3 specific program and use. But I can hear others on that.

4 MR. PARSONS: Well, Mr. Chairman, going back to the
5 order that surrounds the regulation you just read, it's very
6 fresh. The BZA came to the Zoning Commission in 1998 concerned
7 about various uses that were coming under the category of CDCs,
8 which were child development centers.

9 We conducted a hearing and proposed regulations,
10 and we looked at what could have been many, many definitions of
11 programs that we felt were very similar in their impact and
12 management and decided to go for the concept of child/elderly
13 development centers and similar programs, as you just read.

14 I just wanted to emphasize that we did this at the
15 request of the BZA and came to the conclusion that having five or
16 ten more sets of regulations for similar uses just didn't make
17 any sense. It was duplicative and redundant. So, I would agree
18 that the zoning administrator has made the right choice here.

19 CHAIRPERSON GRIFFIS: Good. Secondly, we have the
20 issue of parking. There was clear testimony, I believe, and
21 credible testimony to the fact that there was on the existing
22 site a lack of parking. And I do believe that there was credible
23 testimony on both sides that there was a change of use;
24 therefore, the parking requirements would be invoked. There was
25 the discussion about portions of it being grandfathered, and then

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1 the additional requirements. I was a bit confused about how many
2 and how the calculations were actually made having not been
3 submitted. I found a substantial amount of information to do
4 calculations, that being site plans and floor plans and the like.

5 To that, I believe it is difficult for me to grant
6 an appeal based on, frankly, the lack of information that was
7 persuasive. Therefore, I am of the mind, having deliberated
8 fairly extensively on this, to not grant the appeal on this
9 portion, based on the fact that I do not believe the burden of
10 proving the inconsistency or non-compliance with the regulation
11 by Mr. Chagnon. But I can hear others on that.

12 MR. PARSONS: I would certainly concur with you,
13 Mr. Chairman, that the case simply was not made.

14 CHAIRPERSON GRIFFIS: Okay. Others?

15 MS. RENSHAW: I agree.

16 CHAIRPERSON GRIFFIS: And just to flesh out the
17 entire record, we had testimony to the fact that there was in
18 fact a permit that as granted that as building certain parking
19 requirements -- the substantiation, documentation of timing,
20 chronology for our own deliberation and assertion to somehow
21 figure out whether an error was made or not. Perhaps it could
22 have been made. I do not feel that it was. Therefore, then, I
23 think we can move that we deny the appeal 16839 of ANC 4A, and
24 based upon the decision of the zoning administrator and the
25 issuance of the certificate of occupancy dated August 31, 2001

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1 for the elderly development center with 30 people at the premises
2 of 5511 14th Street, N.W.

3 MR. PARSONS: I would second that motion.

4 CHAIRPERSON GRIFFIS: Thank you very much. Further
5 discussion on the motion?

6 (No response.)

7 CHAIRPERSON GRIFFIS: I would then ask for all
8 those in favor saying aye.

9 (Unanimous ayes.)

10 CHAIRPERSON GRIFFIS: And opposed.

11 (No response.)

12 MS. PRUITT: Staff would report the vote as 3-0-2,
13 motion made by Mr. Griffith and seconded by Mr. Parsons.

14 CHAIRPERSON GRIFFIS: Thank you all very much. Mr.
15 Parsons, before you go, might I inquire, are you on any of these
16 minutes?

17 MR. PARSONS: Oh, you haven't done the minutes? I
18 did give her a proxy.

19 CHAIRPERSON GRIFFIS: We leave the best until last.

20 We will take this up after our lunch break. We
21 appreciate your attendance. Mr. Parsons, it's always good to see
22 you. We will break for lunch and start our afternoon session
23 promptly at 1:15, and we'll take up the minutes at that time.

24 (Whereupon, the Board was adjourned for lunch at
25 12:10 p.m.)

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